



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Order 96-12-11  
Served 12/17/96

Issued by the Department of Transportation  
on the 11th day of December, 1996

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Agreement adopted by the Tariff :  
Coordinating Conferences of the : Docket OST-96-1973  
International Air Transport Association :  
relating to transatlantic passenger fares:  
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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code) and Part 303 of the Department's regulations. The agreement was adopted by mail vote for effectiveness on January 1, 1997. <sup>1/</sup>

The agreement readopts, through March 31, 1997 and with no change in fare levels, the North Atlantic-Africa passenger fare structure which expired on September 30, 1996, and which was last approved by the Department in Order 96-3-58, March 26, 1996.

We will approve the agreement. Based on the information submitted and other relevant material, we conclude that the agreement, as conditioned below, will not result in fares that are unlawful or injurious to competition in the markets at issue. Our approval of these readopted fares, however, will be subject to the conditions that we attached to our earlier approval in Order 96-3-58, particularly those regarding adherence to the Department's Standard Foreign Fare Level (SFFL) criteria.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolution, which is incorporated in the agreement in Docket OST-96-1973 and which has direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to previously

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<sup>1/</sup> IATA TC12 Telex Mail Vote 839, filed with the Department on November 20, 1996.

imposed conditions:

<u>Docket</u>	<u>IATA Resolution</u>
OST-96-1973	PTC12 (Mail 839) 002

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of an antitrust immunity is mandatory under section 41308 of the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-96-1973 as set forth in finding paragraph 1 above, subject, where applicable, to the conditions imposed therein.

**ACCORDINGLY,**

We approve and grant antitrust immunity to the agreement contained in Docket OST-96-1973, as set forth in finding paragraph one above, subject, where applicable, to previously imposed conditions.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

**By:**

Paul L. Gretch  
Director, Office of International Aviation

( SEAL )